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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR :	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,706	11/24/2003	Karel Van den Berg	8553/212a	9947
7590 01/19/2005		EXAMINER		
Penrose Lucas Albright, Esq. MASON, MASON & ALBRIGHT P.O. Box 2246 Arlington, VA 22202-0246			SMITH, KIMBERLY S	
			ART UNIT	PAPER NUMBER
			3644	
		DATE MAILED: 01/19/2005		

Please find below and/or attached an Office communication concerning this application or proceeding.

(,	Application No.	Applicant(s)			
	10/718,706	BERG, KAREL VAN DEN			
Office Action Summary	Examiner	Art Unit			
7	Kimberly S Smith	3644			
The MAILING DATE of this communication apperiod for Reply	ppears on the cover sheet with the	correspondence address			
A SHORTENED STATUTORY PERIOD FOR REP THE MAILING DATE OF THIS COMMUNICATION - Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a re - If NO period for reply is specified above, the maximum statutory perio - Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the mail earned patent term adjustment. See 37 CFR 1.704(b).	I. 1.136(a). In no event, however, may a reply be tileply within the statutory minimum of thirty (30) dained will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONI	mely filed ys will be considered timely. In the mailing date of this communication. ED (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed on 05	November 2004.				
2a)⊠ This action is FINAL . 2b)□ Th	is action is non-final.				
3) Since this application is in condition for allow	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
closed in accordance with the practice under	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.				
Disposition of Claims					
4) Claim(s) 27-38 is/are pending in the application	ion.				
4a) Of the above claim(s) is/are withdr	4a) Of the above claim(s) is/are withdrawn from consideration.				
5) Claim(s) is/are allowed.					
6) Claim(s) 27-38 is/are rejected.					
7) Claim(s) is/are objected to.					
8) Claim(s) are subject to restriction and	or election requirement.				
Application Papers					
9) The specification is objected to by the Examiner.					
10)⊠ The drawing(s) filed on <u>05 November 2004</u> is/are: a)⊠ accepted or b)□ objected to by the Examiner.					
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).					
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).					
11) The oath or declaration is objected to by the B	Examiner. Note the attached Office	Action or form PTO-152.			
Priority under 35 U.S.C. § 119					
12)⊠ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).					
a) All b) Some * c) None of:					
 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 09/828911. 					
3. Copies of the certified copies of the pri					
application from the International Bure	•				
* See the attached detailed Office action for a lis	, , , , ,	ed.			
Attachment(s)					
Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) Interview Summary Paper No(s)/Mail D				
Information Disclosure Statement(s) (PTO-1449 or PTO/SB/06 Paper No(s)/Mail Date		Patent Application (PTO-152)			

P.M

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DETAILED ACTION

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Specification

1. The substitute specification was received on 11/05/04. The substitute specification has been approved for entry.

Drawings

2. The drawings were received on 11/05/04. These drawings are approved.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 27-38 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21-26 of U.S. Patent No. 6,651,584.

Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 21 as patented includes all limitations of newly presented claim27 in that it includes a feed metering device comprising a feed unit having an opening, a feed supplying

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device, a hinge pin and a weighing device for determining the degree of pivoting of the feed unit about the hinge pin

Allowable Subject Matter

5. Claims 27-38 would be allowed upon the timely filing of a terminal disclaimer in compliance with 37 CFR 1.321(c).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S Smith whose telephone number is 703-308-8515.

The examiner can normally be reached on Monday thru Friday 10:00-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703-305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kss

TERI PHAM LUU SUPERVISORY PRIMARY EXAMINER